



6-16-05

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Mueller et al. Confirmation No.: 3548  
Serial No.: 10/822,600 Art Unit: 3762  
Filed: April 12, 2004 Examiner: To be assigned  
For: METHOD AND DEVICES FOR HEART TREATMENT Attorney Docket No.: 10177-247-999

**INFORMATION DISCLOSURE STATEMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure provisions of 37 C.F.R. §1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

1. Enclosures accompanying this Information Disclosure Statement are:

- 1a. ☒ A list of all patents, publications, applications, or other information submitted for consideration by the office.
- 1b. A legible copy of :
- ☐ Each publication or that portion which caused it to be listed on the PTO-1449;
  - ☐ For each cited pending U.S. application filed before June 30, 2003, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion;
  - ☐ all other information or portion which caused it to be listed on the PTO-1449.
- 1c. ☐ An English language copy of search report(s) from a counterpart foreign application or PCT International Search Report.
- 1d. ☐ Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications.
- 1e. ☒ Pursuant to 37 C.F.R. § 1.98(a)(2)(ii), copies of the cited U.S. patents and U.S. patent application publications are not submitted herewith.

2. ☒ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
- ☐ Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);
  - ☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;

- ☒ Before the mailing of the first Office action on the merits;
- ☐ Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

3. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R. §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.

*(Check either Item 3a or 3b)*

- 3a. ☐ The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.
- 3b. ☐ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:
- ☐ enclosed
- ☐ to be charged to Jones Day Deposit Account No. 50-3013.

*(Item 3b to be checked if any reference known for more than 3 months)*

4. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.

The Certification Statement in Item 5 below is applicable.

The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:

- ☐ enclosed.
- ☐ to be charged to Jones Day Deposit Account No. 50-3013

5. ☐ Certification Statement (applicable if Item 3a or Item 4 is checked)

*(Check either Item 5a or 5b)*

- 5a. ☐ In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b. ☐ Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 5c. ☐ Pursuant to 37 C.F.R. §1.704(d), each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.

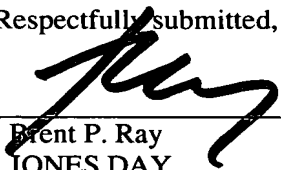
6. ☒ This application is a continuation application under 37 C.F.R. §1.53(b) or (d).

*(Check appropriate Items 6a, 6b and/or 6c)*

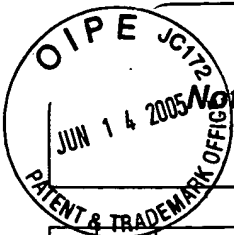
- 6a. ☐ A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.
- 6b. ☒ Copies of publications listed on Form PTO-1449 from prior application Serial No. 09/706,584, filed on November 3, 2000, of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).
- 6c. ☐ Copies of the publications listed on Form PTO-1449 were not previously cited in prior application Serial No. , filed on , and are provided herewith.
7. ☐ This is a Supplemental Information Disclosure Statement. (Check Item 7a)
- 7a. ☐ This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on . A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on .
8. ☐ In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:
- ( Check Item 8a, 8b, or 8c )
- 8a. ☐ satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.
- 8b. ☐ set forth in the application.
- 8c. ☐ enclosed as an attachment hereto.
9. ☒ The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Jones Day Deposit Account No. 50-3013.
10. ☒ No admission is made that the information cited in this Statement is, or is considered to be, material to patentability and no representation is made that a search has been made (other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).

Respectfully submitted,

Date: June 14, 2005

  
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(Reg. No.)



# **Notice of References Cited**

Application/Control No.

09/706,584

Applicant(s)/Patent Under

Reexamination

MUELLER ET AL.

Examiner

Jeoyuh Lin

Art Unit

3737

Page 1 of 1

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,174,871 b1	01-2001	Hammond et al.	514/44
	B	US-6,199,554 b1	03-2001	Mann et al.	128/898
	C	US-6,121,246	09-2000	Isner, Jeffrey M.	514/44
	D	US-5,891,133	04-1999	Murphy-Chutorian, Douglas R.	606/7
	E	US-6,121,775	09-2000	Pearlman, Justin D.	324/309
	F	US-5,421,331	06-1995	Devito et al.	600/425
	G	US-5,865,738	02-1999	Morcos et al.	600/365
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

## **FOREIGN PATENT DOCUMENTS**

		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

EXPRESS MAIL NO: EL 501 759 431 US



## LIST OF REFERENCES CITED BY APPLICANT

(Use several sheets if necessary)

ATTY DOCKET NO.

10177-135-999

APPLICATION NO

09/706,584

APPLICANT

Mueller et al.

FILING DATE

11/03/2000

GROUP

3737

## U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	AA	3,773,034	11/20/73	Burns <i>et al.</i>			
	AB	3,952,742	04/27/76	Taylor			
	AC	4,296,100	10/20/81	Franco			
	AD	4,531,936	07/30/85	Gordon			
	AE	4,657,536	04/14/87	Dorman			
	AF	4,770,653	09/13/88	Shturman			
	AG	4,911,148	03/27/90	Sosnowski <i>et al.</i>			
	AH	4,946,442	08/07/90	Sanagi			
	AI	4,994,033	02/19/91	Shockey <i>et al.</i>			
	AJ	5,061,223	10/29/91	Yock			
	AK	5,185,004	02/09/93	Lashinski			
	AL	5,203,772	04/20/93	Hammerslag <i>et al.</i>			
	AM	5,244,460	09/14/93	Unger <i>et al.</i>			
	AN	5,385,148	01/31/95	Lesh <i>et al.</i>			
	AO	5,419,777	05/30/95	Hofling			
	AP	5,489,575	02/06/96	Lee <i>et al.</i>			
	AQ	5,499,971	03/19/96	Shapland <i>et al.</i>			
	AR	5,507,724	04/16/96	Hofmann <i>et al.</i>			
	AS	5,569,160	10/29/96	Sauer <i>et al.</i>			
	AT	5,569,217	10/29/96	Luther			
	AU	5,571,215	11/05/96	Sterman <i>et al.</i>			
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	AX	5,661,133; B1 5,661,133	08/26/97; 06/01/99	Leiden <i>et al.</i>			
	AY	5,662,124	09/02/97	Wilk			
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	BA	5,698,531	12/16/97	Nabel <i>et al.</i>			
	BB	5,733,250		Withdrawn			
	BC	5,733,280	03/31/98	Avitall			
	BD	5,797,870	08/25/98	March <i>et al.</i>			
	BE	5,797,960	08/25/98	Stevens <i>et al.</i>			
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	BI	5,833,658	11/10/98	Levy <i>et al.</i>			
	BJ	5,840,031	11/24/98	Crowley			
	BK	5,840,059	11/24/98	March <i>et al.</i>			
	BL	5,840,062	11/24/98	Gumaste <i>et al.</i>			
	BM	5,843,050	12/01/98	Jones <i>et al.</i>			
	BN	5,846,221	12/08/98	Snoke <i>et al.</i>			
	BO	5,857,464	01/12/99	Desai			
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	BQ	5,871,495	02/16/99	Mueller			
	BR	5,876,373	03/02/99	Giba <i>et al.</i>			
	BS	5,882,332	03/16/99	Wijay			
	BT	5,885,272	03/23/99	Aita <i>et al.</i>			
	BU	5,891,133	04/06/99	Murphy-Chutorian			
	BV	5,931,831	08/03/99	Linder			
	BW	5,935,063	08/10/99	Nguyen			
	BX	5,941,845	08/24/99	Tu <i>et al.</i>			
	BY	5,941,868	08/24/99	Kaplan <i>et al.</i>			
	BZ	5,964,754	10/12/99	Osypka			
	CA	5,971,983	10/26/99	Lesh			
	CB	5,993,443	11/30/99	Murphy-Chutorian <i>et al.</i>			
	CC	5,997,525	12/07/99	March <i>et al.</i>			
	CD	6,004,269	12/21/99	Crowley <i>et al.</i>			
	CE	6,012,457	01/11/00	Lesh			
	CF	6,024,703	02/15/00	Zanelli <i>et al.</i>			
	CG	6,063,022	05/16/00	Ben-Haim			
	CH	6,133,233	10/17/00	Ross <i>et al.</i>			
	CI	6,183,444	02/06/01	Glines <i>et al.</i>			
	CJ	6,161,543	12/19/00	Cox <i>et al.</i>			
	CK	6,171,303	01/09/01	Ben-Haim <i>et al.</i>			
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	CM	6,224,584 B1	05/01/01	March <i>et al.</i>			
	CN	6,237,605 B1	05/29/01	Vaska <i>et al.</i>			
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		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	CR	WO 96/32129	10/17/96	PCT			<input type="checkbox"/>	<input type="checkbox"/>
	CS	WO 97/25101	07/17/97	PCT			<input type="checkbox"/>	<input type="checkbox"/>
	CT	WO 97/47253	12/18/97	PCT			<input type="checkbox"/>	<input type="checkbox"/>
	CU	WO 99/39624	08/12/99	PCT			<input type="checkbox"/>	<input type="checkbox"/>
	CV	WO 00/57895	10/05/00	PCT			<input type="checkbox"/>	<input type="checkbox"/>

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**OTHER REFERENCES** (Including Author, Title, Date, Pertinent Pages, Etc.)

CW	Padua <i>et al.</i> , "Basic fibroblast growth factor is cardioprotective in ischemia-reperfusion injury" <i>Molecular and Cellular Biochemistry</i> <b>143</b> : 129-135 (1995)
CX	Shi <i>et al.</i> , "PR-39, a proline-rich antibacterial peptide that inhibits phagocyte NADPH oxidase activity by binding to Src homology 3 domains of p47phox" <i>Proc. Natl. Acad. Sci.</i> <b>93</b> :6014-6018 (1996)
CY	Uchida <i>et al.</i> , "Angiogenic therapy of acute myocardial infarction by intrapericardial injection of basic fibroblast growth factor and heparin sulfate: An experimental study" <i>Am. Heart J.</i> , <b>130</b> :1182-1188 (1995)
CZ	Unger <i>et al.</i> "Basic fibroblast growth factor enhances myocardial collateral flow in a canine model" <i>Am J. Physiol.</i> , <b>266</b> :H1577-H1595 (1994)
DA	Walterberger <i>et al.</i> , "Ischemia-Induced Transplant Arteriosclerosis in the Rat" <i>Arteriosclerosis, Thrombosis and Vascular Biology</i> <b>16</b> (12):1516-1523 (1996)
DB	Xiaobing, <i>et al.</i> "Ischemia and Reperfusion reduce the Endogenous Basic Fibroblast Growth Factor (bf GF) in Rat Skeletal Muscles" <i>Chinese Medical Journal</i> <b>108</b> (9): 699-703, (1995)

**EXAMINER****DATE CONSIDERED**

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

**LIST OF REFERENCES CITED BY APPLICANT**

(Use several sheets if necessary)

ATTY DOCKET NO.

APPLICATION NO

APPLICANT

FILING DATE

GROUP

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	DC	5,685,853	11/11/97	Bonnet			
	DD	5,785,702	07/28/98	Murphy-Chutorian <i>et al.</i>			
	DE	5,931,834	08/03/99	Murphy-Chutorian <i>et al.</i>			
	DF	5,925,012	07/20/99	Murphy-Chutorian <i>et al.</i>			
	DG	6,023,135	09/24/98	Gilbreth <i>et al.</i>			
	DH	6,024,703	05/07/97	Zanelli <i>et al.</i>			

**FOREIGN PATENT DOCUMENTS**

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION
							YES NO

**OTHER REFERENCES** (Including Author, Title, Date, Pertinent Pages, Etc.)

DI	Deckelbaum, L.I., Cardiovascular Applications of Laser Technology, Lasers in Surgery and Medicine 15:315-341 (1994)
DJ	Frazier, O.H., Myocardial Revascularization with Laser - Preliminary Findings, Circulation, 1995; 92 [suppl II;II-58-II-65]

**EXAMINER****DATE CONSIDERED**

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.